

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOHN MOYNIHAN,

Plaintiff,

v.

DELHI INDUSTRIES INC.,

Defendant.

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Civil No. 07-CV-11498 (GBD)

**PROPOSED JOINT  
DISCOVERY PLAN**

Plaintiff, JOHN MOYNIHAN, (“plaintiff”) and defendant DELHI INDUSTRIES, INC. (“defendant”), having met and conferred pursuant to Rules 16 and 26(f), hereby submit this Joint Discovery Plan with respect to the above-captioned matter.

**I. Introduction**

This action was originally commenced in state court. Defendant removed this action to federal court.

**A. Plaintiff’s Position:**

This action arises out of a work-place incident that took place on March 7, 2006, at approximately 9:00 a.m., when plaintiff injured his right index finger while he was changing a fan belt on a Delhi Power Ventilator, Model B1-24 CW BHD (“Ventilator”). Specifically, plaintiff alleges that the Ventilator rotated backward during the changing process and caught his right index finger in the V-belt drive of the Ventilator. At the time plaintiff was working for non-party, 80 Central Park West Apartments Corp.

Plaintiff alleges in this products liability action that the Ventilator was defective and lacked appropriate warnings.

B. Defendant's Position:

Defendant denies that the Ventilator, or its component parts, were defective. Further, defendant denies that the Ventilator lacked appropriate warnings.

II. Proposed Discovery Plan

A. Interrogatories:

1. Parties agree to limit all interrogatories to 50 in number.
2. Plaintiff shall respond to defendant's First Set of Interrogatories no later than April 20, 2007.

B. Notice to Produce:

1. Plaintiff shall respond to defendant's Notice to Produce no later than April 20, 2007; and
2. Parties reserve the right to serve additional document demands as discovery proceeds.

C. Party Depositions:

1. Plaintiff shall appear for deposition no later than May 8, 2008;
2. Plaintiff shall be limited to no more than 5 depositions of employees and representatives of defendant;
3. Upon notice by plaintiff, defendant's employees and representatives, subject to subsection (2) above, shall appear for deposition no later than May 22, 2008.

D. Liability Expert Reports:

1. Plaintiff shall serve his liability expert report no later than May 2, 2008;
2. Defendant shall its liability expert report no later than May 16, 2008;

3. Plaintiff's liability expert shall appear for deposition no later than May 23, 2008;

4. Defendant's liability expert shall appear for deposition no later than May 30, 2008.

E. Medical Expert Reports/IMEs:

1. Defendant shall designate doctor(s) for independent medical examination(s) of plaintiff no later than May 15, 2008;

2. All IME's, subject to scheduling, shall be completed by May 30, 2008;

3. Defendant shall serve all IME report within 30 days of the examination;

4. Plaintiff shall designate all medical expert witnesses no later than May 15, 2008;

5. Plaintiff shall serve all medical expert reports, if any, no later than May 30, 2008.

F. Amendments/No Parties:

1. No additional parties may be joined after May 30, 2008.

2. No amendments to the pleadings will be permitted after May 30, 2008.

G. Discovery End Date:

Except for good cause shown, all discovery shall be completed by June 5, 2008.

However, if the parties require additional time to complete discovery, counsel may stipulate to extend discovery, without application to court, for an additional period not to exceed 60 days.

H. Dispositive Motions:

Dispositive motions shall be served no later than September 11, 2008. Answering papers are to be served within 14 days. Reply papers are to be served within 7 days.

I. Joint Pretrial Order:

The Joint Pretrial Order shall be filed no later than September 18, 2008. However, if a dispositive motion is filed the time within to file the Joint Pretrial Order shall be extended until 3 weeks after the decision on the motion.

J. Conference Schedule:

1. A case management conference will be held on July 10, 2008 at 9:30 a.m.
2. A final pretrial conference will be held on October 9, 2008 at 9:30 a.m.

K. Trial:

The parties shall be ready for trial on 48 hours notice on or after October 16, 2008. The estimated trial time is 4 days, and this is a jury trial.

**III. Initial Disclosures**

The parties will exchange the information required by Fed. R. Civ. P. 26(a) by March 31, 2008.

**IV. Additional Issues**

- A. At this time, the parties do not believe that this case lends itself to mediation and/or arbitration. However, as discovery proceeds, the parties will revisit the potential for some form of alternative dispute resolution.

B. The parties do not consent to a trial before the Magistrate Judge.

Dated: March 20, 2008

Bauman, Kunkis & Ocasio-Douglas, P.C.  
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Paul S. Danner (PD0175)

SO ORDERED:

GEORGE B. DANIELS  
United States District Judge